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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,090	12/26/2001	Dannie E. Martin	010546	3895

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EXAMINER

BEAMER, TEMICA M

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/035,090	Applicant(s) MARTIN, DANNIE E.	
	Examiner Temica M. Beamer	Art Unit 2681	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,5-9,15-24 and 27-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,5-9,15,16 and 29-37 is/are allowed.
- 6) ☒ Claim(s) 17-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 17-24, 27 and 28 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17- 24, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey et al (Hendrey), U.S. Patent No. 6,647,269 in view of Brandenburg et al (Brandenberg), U.S. Pub. No. 2005/0043060.

Regarding claim 17, Hendrey discloses a system for transmitting a text message from an advertiser to mobile subscribers, comprising a database for storing information regarding the mobile subscribers (col. 5, lines 12-39), an advertiser manager platform in communication with the database (col. 4, lines 15-50) and a short message system center in communication with the advertiser manager platform to send the text messages (col. 3, lines 26-36).

Hendrey, however, fails to disclose the advertiser manager platform including a text filter for filtering in the text message based on predefined character strings prior to the text messages being sent.

In a similar field of endeavor, Brandenburg discloses a method and apparatus for scheduling presentation of digital content of a personal communication device. Brandenburg further discloses filtering text information for predetermined content before the messages are sent to a mobile terminal (abstract and paragraph 0304).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Hendrey for the purpose of ensuring appropriate messages are being sent.

Regarding claim 18, the combination of Hendrey and Brandenburg discloses the system of claim 17, wherein the advertiser manager platform is for: receiving from the advertiser content of the text message and at least one criterion (location/distance of user relative to a store) for the mobile subscribers; and interrogating the database to determine each of the mobile subscribers that satisfy the criterion (Hendrey, col. 5, lines 12-39).

Regarding claim 19, the combination of Hendrey and Brandenburg discloses the system of claim 18, wherein the advertiser manager platform is further for: calculating a cost of transmitting the text message to each of the mobile subscribers that satisfy the criterion (Hendrey, col. 2, lines 56-60); and filtering the content of the text message for predetermined character strings (Hendrey, col. 5, lines 19-24).

Regarding claim 20, the combination of Hendrey and Brandenburg discloses the system of claim 17, wherein the advertiser manager platform includes: an advertiser interface module; and a database management module in communication with the advertiser interface module (Hendrey, figure 1).

Regarding claim 21, the combination of Hendrey and Brandenburg discloses the system of claim 20, wherein the advertiser manager platform includes a cost calculation module in communication with the advertiser interface (Hendrey, col. 2, lines 56-60) module and a text filter module in communication with the advertiser interface module (Hendrey, col. 5, lines 19-24).

Regarding claim 22, the combination of Hendrey and Brandenburg discloses the system of claim 21, wherein the advertiser manager platform further includes a mobile subscriber interface module in communication with the database management module (Hendrey, col. 3, lines 26-36, lines 56-65).

Regarding claim 23, Hendrey discloses a device for managing text messages sent from an advertiser to mobile subscribers, comprising first programmable means for receiving from the advertiser content of a text message and at least one criterion (location /distance of a user relative to a store) (col. 4, lines 27-45), second programmable means for interrogating a database to determine the mobile subscribers that satisfy the criterion (col. 5, lines 12-39).

Hendrey, however, fails to disclose third programmable means for filtering text in the text message based on predetermined character strings prior to the text message s being sent to the mobile subscribers that satisfy the criterion.

Brandenberg discloses filtering text information for predetermined content before the messages are sent to a mobile terminal (abstract and paragraph 0304).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Hendrey for the purpose of ensuring appropriate messages are being sent.

Regarding claim 24, the combination of Hendrey and Brandenburg discloses the device of claim 23 comprising fourth programmable means for calculating a cost of transmitting the text message to each of the mobile subscribers (Hendrey, col. 2, lines 56-60).

Regarding claim 27, the combination of Hendrey and Brandenburg discloses the device of claim 24 further comprising fifth programmable means for receiving an input (purchase information) from at least one mobile subscriber relative to the criterion (Hendrey, col. 5, lines 42-49).

Regarding claim 28, the combination of Hendrey and Brandenburg discloses the device of claim 23 wherein the first programmable means further receives from the advertiser a time at which the text message is to be transmitted to the mobile subscribers that satisfy the criterion (Hendrey, col. 5, lines 19-24).

***Allowable Subject Matter***

4. Claims 1, 3, 5-9, 15, 16 and 29-37 are allowed.

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5. The following is a statement of reasons for the indication of allowable subject matter: Prior art fails to suggest or render obvious a cost calculator in communication with an advertiser module for automatically calculating a cost of transmitting the text message to each mobile subscribers that satisfy a criterion in response to receiving advertiser content and prior to the text message being sent.

#### Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Beamer whose telephone number is (571) 272-7797. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 7:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

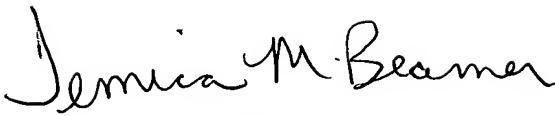
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Temica M. Beamer  
Primary Examiner  
Art Unit 2681

May 31, 2005

  
**TEMICA BEAMER**  
**PRIMARY EXAMINER**